appointed to take charge of said company and manage the same, pending the decision of the suit. *Held*, that an injunction was impracticable and that a receiver *pendente lite* should be appointed.

## CARRIERS.

*Carriers—Mileage—Issue on Conditions—Consideration of Contract.—Corcoran* v. *N. Y. C. & H. R. R. Co.*, 49 N. Y. Supp. 701. The statute provided that railroad companies should issue 1000-mile mileage books at two cents per mile, and declared a forfeiture of $50 to the person to whom a railroad company should refuse to issue such book. The contract which defendant company required purchasers to sign on the mileage books read in part as follows: "It is only good for passage on the train when presented to the conductor with a passage ticket which had been received in exchange for the coupons which have been detached from this book." The passage ticket given in exchange for such coupons is subject to all the conditions in this contract, being good only for one continuous passage within the time named therein, and no stop-over will be allowed." The plaintiff boarded a train of the defendant company without procuring such passage ticket and offered it to the conductor. Upon the latter's refusal to accept it and demand for ticket or price of the same and plaintiff's subsequent refusal, plaintiff was forcibly ejected from the train. In an action to recover under the statute plaintiff contended that by force of the statute the conductor was bound to accept the mileage book, and that the contract was unauthorized by statute. *Held*, one judge dissenting, such contention good, there being no consideration for the contract. The performance of that which a party was under a previous legal, valid obligation to perform is not a sufficient consideration for a new contract. *Vanderbilt* v. *Schreyer*, 91 N. Y. 392, 401.

*Carrier—Duty to Passenger at Depot.—Wells* v. *N. Y. C. & H. R. R. Co.*, 49 N. Y. Supp. 510. In an action to recover damages for the death of plaintiff's intestate, her husband, it appeared that the deceased, upon showing his ticket to the gateman, was told to sit down, and that he would be notified when his train arrived. He therefore took a seat in the waiting room. Soon after it was noticed that he was ill and did not recognize acquaintances. The train had meanwhile arrived and departed without the deceased being notified. When the gateman noticed that he had failed to notify the deceased, and that he was in a sick condition, he instructed the policeman to put him out of the depot. The deceased was taken out, and wandering upon defendant's tracks was killed. *Held*, that the relation of carrier and passenger existed, and that under the circumstances defendant's employees were guilty of such negligence as to render the company liable. The question as to whether the condition of deceased was such that defendant might have refused to receive him as a passenger is not involved, as it did receive him as such. In case he was found, after he became a passenger, to be too ill to travel in safety, it was the duty of the defendant not to undertake to carry him, but to put him in a place of safety.

## BANKS AND BANKING.

*Banks—Checks—Insane Persons.—American Trust and Banking Co.* v. *Boone*, 29 S. E. Rep. (Ga.) 182. The check of a person lawfully adjudged insane *held*, to be absolutely void and that the bank paying it did so at its peril

even though the fact the maker was insane was unknown to the bank at the time of payment, and that he had been adjudged insane by a court of foreign jurisdiction.

*Banks and Banking—Failure to Return Draft—Liability of Bank.—Kirkham* v. *Bank of America*, 49 N. Y. Supp. 767. Plaintiff, a regular depositor, deposited with defendant a draft on a foreign bank for collection. Defendant forwarded it to its agent where the drawee was located, for collection. The drawee gave as payment a sight draft upon its correspondent in another city. Upon receipt of such information from its agent, defendant credited plaintiff with the proceeds of the draft, and notified him to that effect. On presentation of the sight draft, payment was refused. About a month afterwards, defendant notified plaintiff that the credit given him on the draft was canceled. Plaintiff demanded the return of the draft. *Held*, that defendant was liable upon failure to return the draft, properly protested, or the amount therefor. *Bank* v. *Ashworth*, 16 Atl. Rep. 596. Patterson, J., dissents.

## MISCELLANEOUS.

*Replevin—Verdict and Judgment—Fixing Value of Each Article—Arrest of Judgment.—Byrne* v. *Lynn*, 44 S. W. Rep. (Tex.) 311. In replevin for property described as a bar, counter, and ice chest, of the value of $900, and whiskey, of the value of $108, *held*, defendant was not entitled to have judgment arrested because the jury rendered a verdict which failed to find the separate value of each article, there having been no evidence tending to show such separate value. Compare, however, *Blakely's Adm'r.* v. *Duncan*, 4 Tex. 185; *Hoeser* v. *Kraeka*, 29 Tex. 450; *Cole* v. *Crawford*, 69 Tex. 124, 5 S. W. 646, which the court attempts to distinguish from the present case. See also, *Blake* v. *Powell*, 26 Kan. 320; *Hanf* v. *Ford*, 37 Ark. 545.

*Negligence of Parent—When not Imputed to Child.—Kowalski* v. *Chicago G. W. Ry. Co.*, 84 Fed. 586. The contributory negligence of a father, as the driver of a wagon, in causing a collision with defendant's train is not imputable to his infant child, who was in the wagon with him at the time, so as to prevent the child from recovering for injuries received. The case of *Thorogood* v. *Bryan*, 8 C. B. 115, and cases in this country based thereon, holding the negligence of the driver to be imputable to the occupants of the vehicle is no longer of force in this country. Since *Little* v. *Hackett*, 116 U. S. 366, 9 Sup. Ct. 391, it has been generally held that there is no legal identity between the driver of the vehicle and those occupying it as passengers or upon invitation of the driver. Upon principle, the fact that the person injured was also the infant child of the driver cannot alter the case.

*Wills—Construction—Description of Property—Stock.—Capehart et al.*, v. *Burrus et al.*, 29 S. E. Rep. (N. C.) 97. A testator, after giving his wife several tracts of land, two horses, two cows, and other personalty, and a tract of land to each of several children, in a separate paragraph of the will, declared that "all my notes, bonds, stock, and money on hand I wish divided between my wife," and children named. *Held*, that the word "stock" should be construed by association with the other words used as meaning bonds and